

Pro Bono Practices and Opportunities in Portugal¹

I. Introduction

Access to justice in Portugal is a right provided by the Portuguese Constitution, and lawyers have a general duty to help protect this right. Portugal has increased its efforts to make legal assistance available to those who cannot afford it through a system that involves cooperation between Portuguese Social Security services and the Portuguese Bar Association. In addition, several NGOs in Portugal provide legal assistance to the public in particular areas such as criminal law, consumer law and refugee law. In recent years, law firms have started their own pro bono programs, providing legal assistance, usually to non-profit associations.

II. Overview of Pro Bono Practices

(a)	Professional Regulation	
	1. Describe the laws/rules that regulate the provision of legal services?	Legal activity in Portugal is regulated by Law No. 145/2015 of 9 September 2015, which provides the ethics rules with which lawyers must comply (the “ Statute ”). Article 66 provides that only lawyers duly registered with the Portuguese Bar Association can practice ‘acts of lawyers’ (<i>atos próprios dos advogados</i>), namely representing a client in court or in other legal matters and providing legal advice. ²
	2. Describe any licensure requirements governing the provision of legal services.	<p>To practice law in Portugal, a lawyer (<i>advogado</i>) must be registered with the Portuguese Bar Association.³ The Portuguese Bar Association was created by Law No. 11715 of 12 June 1926, and is organized into seven districts: Lisbon, Porto, Coimbra, Évora, Faro, Açores and Madeira. Its current articles of association are now set forth in the Statute.</p> <p>To register with the Portuguese Bar Association, an individual must have:</p> <ul style="list-style-type: none"> (i) obtained a law degree from an accredited university; (ii) undertaken an internship with a maximum duration of 18 months divided in two phases: <ul style="list-style-type: none"> (a) a minimum of six-months of training on the regulations and principles applicable to the profession, at the end of which the candidate is required to carry out written works or reports that evidence the

¹ This chapter was drafted with the support of Pacome Ziegler of PLMJ Abogados.

² Pursuant to Article 1 of the Law No. 49/2004, of 24 August 2004, holders of a Masters or Ph.D. in Law are authorised to provide legal advice, if they are registered for such purpose with the Portuguese Bar Association in accordance with a special procedure provided for in the Statute.

³ Articles 66 and 205 of the Statute.

		<p>knowledge acquired to pass to the second training phase and be able to appear in Court, and</p> <p>(b) a maximum of 12 months of practical training in a law firm, having a lawyer with at least five years of professional experience as a tutor; and</p> <p>(iii) passed a final entrance examination for the Portuguese Bar Association (<i>prova de agregação</i>).⁴</p>
(b) Pro Bono Practice and Culture		
	<p>1. Describe the rules that regulate the provision of pro bono legal services e.g. any explicit regulation or limitation on providing free legal services in some or all contexts, details of any mandatory or minimum fees imposed on provision of legal services.</p>	<p>The Portuguese Constitution guarantees access to law and judicial review for everyone. Furthermore, it prohibits denial of justice deriving from a lack of financial resources, and confirms that everyone has the right to legal information and counselling, by means of legal aid if necessary.⁵ This constitutional right of access to justice is enshrined in Law No. 34/2004, of 29 July 2004⁶; Administrative Ordinances Nos. 1085-A/2004, of 31 August 2004, No. 10/2008, of 3 January 2008 and No. 11/2008, of 3 January 2008 and Internal Regulation No. 330-A/2008, approved by the General Council of the Portuguese Bar Association⁷ (in each case, as subsequently amended).</p> <p>It is a duty of lawyers registered with the Portuguese Bar Association to assist with enhancing access to justice (the Statute, Article 90(2)(f)).</p> <p>However, there are no specific rules directly governing pro bono practice. The ethics rules governing legal activity (as referred to in II(a)(1) above) generally apply.</p>

⁴ Id. at Article 195.

⁵ Article 20 of the Portuguese Constitution.

⁶ Law No. 34/2004 was amended by Law No. 47/2007, of 28 August 2007, by Law No. 40/2018, of 8 August 2018 and by Decree-Law 120/2018, of 27 December 2018. Law No. 34/2004 repealed Law No. 30-E/2000, of 20 December 2000, which first introduced the current structure of state-funded legal aid through social security services. Law No. 34/2004 transposes into the Portuguese territory the European Directive No 2003/8/CE, of January 27, 2003, concerning the improvement of access to justice in cross border disputes, available online at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003L0008&from=EN> (last visited on May 1, 2019).

⁷ See http://www.oa.pt/Conteudos/Artigos/detalhe_artigo.aspx?idsc=25368&ida=67239 (last visited on May 1, 2019).

<p>2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?</p>	<p>There is no formal obligation for private lawyers in Portugal to undertake pro bono activities.</p>
<p>3. Are aspiring lawyers required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers?</p>	<p>Aspiring lawyers are not required to complete a minimum number of hours of pro bono legal services to become licensed lawyers.</p>
<p>4. What are the main areas of law which require or present opportunities for the provision of pro bono legal services? What are the major unmet legal needs?</p>	<p>As far as individuals are concerned, the main areas of law which require or present opportunities for the provision of pro bono legal services are criminal law, consumer law, family law, labour law and more recently immigration and refugee law.</p> <p>There is also high demand from NGOs, foundations and associations to assist them with corporate and tax law matters on a pro bono basis.</p>
<p>5. Who are the main providers of pro bono legal services? e.g., NGOs, governmental or other public services, schools and universities, private law firms (local or international) or corporate organizations?</p>	<p>The Portuguese Bar Association has a network of “Legal Consulting Offices”, which are staffed by volunteer lawyers and where any individual may obtain guidance regarding legal matters.⁸</p> <p>Legal advice provided under this mechanism is free of charge for interested parties, although the applicable regulations limit the number of consultancy requests and the duration of consultations that one person may benefit from. In addition, in the past, the Portuguese Bar Association has organized an annual “Free Legal Consulting Day”, during which lawyers were available at a number of locations to assist the public with legal questions.</p> <p>Portuguese law firms also generally have pro bono programs providing free legal assistance to charity institutions that work in the social, cultural, or educational areas. Some non-profit organizations and associations in Portugal offer legal support services to the public.</p> <p>There are some state organizations that provide legal consulting assistance to the public concerning specific legal areas, such as the Authority for</p>

⁸ The Portuguese Bar Association (General Council) will refer the matter to the Legal Consulting Office closest to the complainant’s residency area http://www.oa.pt/ci/Conteudos/Contactos/lista_contactos.aspx?sidc=67944&idc=104964 (last visited on May 1, 2019).

		Working Conditions (<i>Autoridade para as Condições do Trabalho</i>), which provides legal advice on labor law-related issues.
(c)	Obstacles to Provision of Pro bono Legal Services	
	1. Do lawyers require a license to provide pro bono legal services?	Other than the requirement that only lawyers registered with the Portuguese Bar Association can provide legal advice, there is no specific license required to provide pro bono legal services in Portugal.
	2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?	Foreign lawyers do not require any additional license(s) to provide pro bono legal services in Portugal. Foreigners can provide pro bono legal services in Portugal on the same conditions as Portuguese lawyers, provided they are registered with the Portuguese Bar Association.
	3. Do lawyers require professional indemnity legal insurance cover for any pro bono legal services that they provide? If so, are they prohibited from working under the cover of another pro bono provider, such as a private law firm or organization working on the same pro bono project?	All lawyers duly registered with the Portuguese Bar Association automatically benefit from a professional liability insurance with a compensation limit of EUR 150,000.00 (other insurance may be contracted in addition to this). The insurance cover is comprehensive and therefore covers pro bono legal services provided by lawyers in Portugal. A specific professional indemnity legal insurance cover for pro bono legal services is not required under Portuguese law.
	4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?	<p>There are no specific rules that allow or prohibit the advertising of pro bono successes or soliciting new pro bono clients.</p> <p>The general guidelines for lawyers on advertising and soliciting new clients are set out in the Statute:</p> <p>Article 90 of the Statute provides that it is a duty of the lawyer not to solicit any clients, including through an intermediary.</p> <p>Article 94 of the Statute further provides that lawyers may disclose their professional activity in an objective, truthful and dignified matter, in strict respect of professional ethics, professional secrecy and rules on advertising and competition. The Statute considers persuasive, ideological, self-aggrandizing or comparative advertising as well as any reference to the law firm's standing to be</p>

		unlawful acts of advertising and therefore prohibits them.
	5. Do lawyers receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked?	There is no “Continuing Legal Education” or equivalent credit for pro bono hours completed by lawyers in Portugal.
(d)	Sources of Pro bono Opportunities and Key Contacts	
	1. Describe any governmental sources of pro bono and/or other legal services in Portugal.	The Portuguese social security services (through their system of legal protection ⁹), the Portuguese Bar Association (through the network of “Legal Consulting Offices” ¹⁰) and parish councils all over the country are the main governmental sources of pro bono and/or other legal aid services in Portugal.
	2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in Portugal.	Several non-governmental foundations, associations and non-profit organizations operating in Portugal are sources of pro bono legal services. Recently, in 2013, the first “clearing house” for pro bono legal services was created in Portugal – “Associação Pro Bono” ¹¹ , which puts pro bono beneficiaries in contact with volunteer lawyers, law students, mediators and notaries.
	3. Is there any public or private organization with which a local or foreign attorney can register in order to be made aware of pro bono opportunities?	Associação Pro Bono ¹² is a private organization through which local or foreign lawyers registered with the Portuguese Bar Association can be made aware of pro bono opportunities. Local or foreign lawyers (along with trainee lawyers, mediators and notaries) registered with Associação Pro Bono receive regular emails informing them of pro bono opportunities.

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⁹ See <http://www.seg-social.pt/protecao-juridica> (last visited on May 1, 2019).

¹⁰ See http://www.oa.pt/ci/Conteudos/Contactos/lista_contactos.aspx?sidc=67944&idc=104964 (last visited on May 1, 2019).

¹¹ See <https://www.probonoportugal.com/> (last visited on May 1, 2019).

¹² See <https://www.probonoportugal.com/advogados-e-advogados-estagiarios> (last visited on May 1, 2019).

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